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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,545	08/01/2003	Michael F. Brletich	12539	2681

7590 07/14/2005
PAUL F. DONOVAN
ILLINOIS TOOL WORKS INC.
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GLENVIEW, IL 60025

EXAMINER

GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,545

Applicant(s)

BRLETICH ET AL.

Examiner

Ernesto Garcia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-16 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) 22 and 23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 11-16 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on 06/20/2005 and 04/15/2005 have been entered.

Election of Species

Claims 22 and 23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicants timely traversed the restriction (election) requirement in the reply filed on 06/20/2005. Amended claim 21 is now generic and therefore examined. Applicants have acknowledged that claims 22 and 23 do not read on the elected species I and will remain withdrawn.

Claim Objections

Claim 1 is objected to because of the following informality:

regarding claim 1, the limitation "that is" in line 8 should be --adapted to be-- as the diameter cannot not be defined in respect to a component that is not claimed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Antonucci et al., 6,119,306.

Regarding claim 1, Antonucci et al. disclose, in Fig. 35, a device comprising a fastener plug **13** including a plug portion **20'** and a fastener portion **24**. The plug portion **20'** defines an end cap **20'** and at least one disc **28** spaced apart from the end cap **20'**. The fastener portion **24** defines a flexible extension member **27** extending outwardly

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from the end cap **20'**. The extension member **27** includes a projecting member **26'**.

Given the structure of Antonucci et al. above, the disc is sized and shaped to mate with and seal an open end of a bar. The flexible extension member is able to flex as the member is installed in the open end of the bar and snap back to an original position when the projection member engages an aperture in a sidewall of the bar.. Further, the disc defines a diameter slightly larger than a diameter of the open end of the bar.

Regarding claim 2, the end cap **20'** defines a peripheral edge **B1** and a flat surface edge **B2** along the peripheral edge **B1**. Note, the claims are written with a broad breadth that Antonucci et al. reads on this claim. Applicant should consider rephrasing that the peripheral edge has a truncated edge or truncated surface.

Regarding claim 3, a rib **A1** connects the disc **28** to the end cap **20'** (see marked-up attachment provided in last Office action).

Regarding claim 4, the disc **28** is a plurality of discs **28** spaced apart from the end cap **20'**.

Regarding claim 5, the extension member **27** extends upwardly from the end cap **20'**.

Regarding claim 6, the extension member **27** extends across the discs **28**.

Regarding claim 7, the discs **28** define a flat surface edge **A2** (see marked-up attachment provided in last Office action; Figure 40).

Regarding claim 8, the projection member **26'** defines an inclined surface **A2** (see Figure 41).

Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Popsys, 5,496,141.

Regarding claim 1, Popsys discloses, in Fig. 2, a device comprising a fastener plug **10** including a plug portion **12** and a fastener portion **18**. The plug portion **12** defines an end cap **12** and at least one **22** spaced apart from the end cap **12**. The fastener portion **18** defines a flexible extension member **14** extending outwardly from the end cap **12**. The extension member **14** includes a projecting member **16**. Given the structure of Popsys above, the disc is sized and shaped to mate with and seal an open end of a bar. The flexible extension member is able to flex as the member is installed in the open end of the bar and snap back to an original position when the projection member engages an aperture in a sidewall of the bar. Further, the disc defines a diameter slightly larger than a diameter of the open end of the bar.

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Regarding claim 2, the end cap **12** defines a peripheral edge and a flat surface edge along the peripheral edge. Note, the claims are written with a broad breadth that Popsys reads on this claim. Applicant should consider rephrasing that the peripheral edge has a truncated edge or truncated surface.

Regarding claim 4, the one disc **22** is a plurality of discs **20,22** spaced apart from the end cap **12**.

Regarding claim 5, the extension member **14** extends upwardly from the end cap **12**.

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Gieling et al., 5,144,780 (see marked-up attachment).

Regarding claim 21, Gieling et al. disclose, in Figure 2, a device comprising a plug. The plug comprising an end cap **29**, a body **33**, and a flexible extension member **59**. The body **33** extends from the end cap **29**. The flexible extension member **59** has an fixed end **A4** and an free end **A5**. The fixed end **A4** is fixed to the end cap **29**. The free end **A5** is opposite the fixed end **A4**. The flexible extension member **59** includes at least a portion **A6** thereof extending between and within a space **A7** defined by the end cap **29** and a portion **A8** of the body **33** spaced farthest from the end cap **29**. The free end **A5** includes an aperture engaging member **57**.

The body **33** is sized, shaped and configured for mating with an interior wall of a bar.

Claims 1-3, 5, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Kwilosz, 6,799,9341.

Regarding claim 1, Kwilosz disclose, in Fig. 5, a device comprising a fastener plug **10** including a plug portion **200** and a fastener portion **14**. The plug portion **200** defines an end cap **200** and at least one disc **12** spaced apart from the end cap **200**. The fastener portion **14** defines a flexible extension member **22** extending outwardly from the end cap **200**. The extension member **22** includes a projecting member **54**. Given the structure of Kwilosz above, the disc is sized and shaped to mate with and seal an open end of a bar. The flexible extension member is able to flex as the member is installed in the open end of the bar and snap back to an original position when the projection member engages an aperture in a sidewall of the bar. Further, the disc defines a diameter slightly larger than a diameter of the open end of the bar.

Regarding claim 2, the end cap **200** defines a peripheral edge and a flat surface edge along the peripheral edge. Note, the claims are written with a broad breadth that Kwilosz reads on this claim. Applicant should consider rephrasing that the peripheral edge has a truncated edge or truncated surface.

Regarding claim 3, a rib **30** connects the disc **12** to the end cap **200**.

Regarding claim 5, the extension member **22** extends upwardly from the end cap **200**.

Regarding claim 8, the projection member **54** defines an inclined surface (the ramp).

Allowable Subject Matter

Claims 9 and 11-16 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 9, the prior art of record does not disclose or suggest a device comprising a fastener plug including an end cap defining a flat truncated surface along a peripheral edge;

regarding claims 11-14, these claims directly or indirectly depend from claim 9;

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regarding claim 15, the prior art of record does not disclose or suggest a device comprising an extension member extending across a flat surface edge of a plurality of discs; and,

regarding claim 16, the prior art of record does not disclose or suggest a device comprising an aperture-engaging member defining opposing columns joined together by a rib.

Response to Arguments

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new grounds of rejection.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gordon, 5,651,632, and Mair, 4,956,900 show a similar device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30-5:30. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

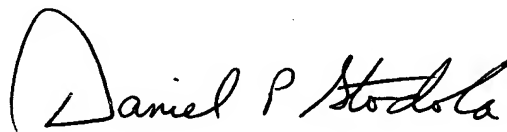
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E.G.

June 27, 2005

Attachment: one marked-up page of Gieling et al., 5,144,780.



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

